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86-00049

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NOV 8 1985

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Dr. Ernest A. Mancini
State Oil and Gas Supervisor
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Oil and Gas Board - Pipeline -
Utilities - Rules and
Regulations

Oil and Gas Board has regulatory
jurisdiction over natural gas
cleansing plant as part of a
rural intrastate natural gas
gathering line system under the
facts presented.

Dear Dr. Mancini:

We are in receipt of your request of October 15, 1985,
seeking an opinion from this office which addresses the
following question:

"Does the State Oil and Gas Board have
jurisdiction over a facility known as the
Copeland Sulfur Plant and the associated
pipeline system, the operations are
described hereinbelow?

The following is a description of the
operations of the Copeland Sulfur Plant
and the associated pipeline system:

Collet Ventures, Inc., a foreign
corporation authorized to do and doing
business in the State of Alabama, has
constructed and currently operates a
plant in Northwest Washington County,
Alabama, known as the Copeland Sulfur

Dr. Ernest A. Mancini
State Oil and Gas Supervisor
Page Two

Plant. The function of the plant is to convert natural gas containing high quantities of hydrogen sulfide ('sour gas') into usable natural gas. It is the intention of Collet Ventures, Inc. to connect several wells in Choctaw and Washington Counties, Alabama to the Copeland Sulfur Plant. In conjunction with the construction of the plant, Collet Ventures, Inc. constructed an associated pipeline system connecting the plant with the wells in Choctaw and Washington Counties. This type of plant is commonly referred to in the oil and gas business as a 'cleansing plant' because it removes the hydrogen sulfide and other products from the hydrocarbons produced. After the gas has been 'cleansed' at the Copeland Sulfur Plant, the usable natural gas is transported through a natural gas pipeline owned and operated by American Pipeline Company, a foreign corporation authorized to do and doing business in Alabama. The natural gas pipeline of American Pipeline Company transports the usable natural gas from the Copeland Sulfur Plant to the purchasers of the natural gas. The Copeland Sulfur Plant is located in a rural area near the community of Copeland. The nearest incorporated cities are Chatom and Millry, which are both approximately 15 miles from the plant facility. The present plans of Collet Ventures, Inc. are to take gas from eight gas wells to the plant facility. The wells to be connected to the pipeline system are at a distance of from 2 miles to approximately 15 miles from the plant. In the documents prepared by Collet Ventures, Inc. and obtained by the Board relating to the plant facility and associated pipeline system, the pipeline system is referred to as the 'Copeland Wellhead Sour Gas Gathering System.' A 'Gathering System Schematic' supplied to the State Oil and Gas Board by independent contractor Chapman Engineers, Inc. indicates the construction of the pipeline system; the 'Gathering System Schematic' is attached hereto."

Dr. Ernest A. Mancini
State Oil and Gas Supervisor
Page Three

On October 10, 1985, this office issued an opinion stating that the State Oil and Gas Board had jurisdiction and regulatory authority over rural intrastate natural gas gathering lines. We would refer you to that opinion for the authorities and citations supporting our conclusion since they, in large part, provide the basis for our opinion in this instance that the Oil and Gas Board has jurisdiction and authority over the 'Copeland Sulfur Plant' since it is a part of a rural intrastate natural gas gathering line.

In reaching our conclusion, we have been aided by the opinion of the Acting Chief, Southern Region, Pipeline Safety, Office of Operations and Enforcement, Department of Transportation on this matter. A copy of that letter is attached to this opinion.

The issue you present in your opinion request, we believe essentially boils down to whether the 'cleansing plant' in this case, the Copeland Sulfur Plant, is a part of a gathering line or a transmission line. If the plant is a part of a natural gas transmission line then it is outside the scope of authority of the State Oil and Gas Board. If the plant is a part of a natural gas gathering line and if that gathering line is rural and intrastate in nature, then the State Oil and Gas Board in accordance with our opinion of October 10, 1985, would have jurisdiction and regulatory authority over the plant.

Based upon the description of the plant, its function, the condition and ownership of the gas prior to and after leaving the cleansing plant, as well as the conclusions of the officials of the U.S. Department of Transportation, we are of the opinion that the Copeland Sulfur Plant is a part of a natural gas gathering line. Since the gathering line is in a rural area, it is exempted from the jurisdiction of the Department of Transportation under the Natural Gas Pipeline Safety Act of 1968 and state regulation by the Public Service Commission. It would be subject to the authority of the State Oil and Gas Board in accordance with our opinion of October 10, 1985. The following explains our conclusion.

A 'gathering line' is defined at 49 CFR, 192.3 (1982) as 'a pipeline that transports gas from a current production facility to a transmission line.' In his letter of September 18, 1985, Mr. Cesar De Leon of the U.S. Department of Transportation sets forth his interpretation of the term 'gathering line.' In that letter Mr. De Leon states:

Dr. Ernest A. Mancini
State Oil and Gas Supervisor
Page Four

"The definitions of 'gathering line' and 'transmission line' in Part 192.3 are the foundation of any decision on a particular pipeline, particularly as to the point where a gathering line ends and the transmission line begins. In applying these definitions we have used one or more of the following items. We have considered that a gathering line ends and a transmission line begins at a point where the gas is ready for sale. Furthermore, we have considered that a transmission line begins at the outlet of a processing plant, or at the outlet of a compressor if no processing plant is upstream of the compressor. Also, we have used the point where ownership of the gas or a pipeline changes from one entity to another to determine whether a pipeline is a gathering or a transmission pipeline."

From the facts presented, the Copeland Sulfur Plant and the associated pipeline 'gathering system' would constitute a 'gathering line' as defined in the Natural Gas Pipeline Safety Act and the regulations of the Department of Transportation under the interpretation set forth by Mr. De Leon. According to the facts presented, the natural gas produced from the wells through the 'gathering system' to the Copeland Sulfur Plant contains high quantities of hydrogen sulfide ('sour gas'), and the function of the plant is to convert natural gas containing the high quantities of hydrogen sulfide into usable natural gas. This type of plant is referred to in the oil and gas business as a 'cleansing plant' because it removes the hydrogen sulfide and other products from the hydrocarbons produced. The natural gas containing high quantities of hydrogen sulfide is not 'ready for sale' until it has been 'cleansed' at the Copeland Sulfur Plant, and the Copeland Sulfur Plant and associated pipeline 'gathering system' would constitute a 'gathering line'.

As stated in the facts presented, the Copeland Sulfur Plant and associated pipeline 'gathering system' are in a rural area; therefore under the facts presented, the Copeland Sulfur Plant and associated pipeline 'gathering system' constitute an intrastate rural natural gas pipeline 'gathering line' exempt from federal regulation by the United States Department of Transportation and state regulation by the Alabama Public Service Commission.

Dr. Ernest A. Mancini
State Oil and Gas Supervisor
Page Five

It is our opinion that the State Oil and Gas Board of Alabama has the jurisdiction and authority over the Copeland Sulfur Plant and the associated pipeline 'gathering system' under the statutory basis set forth in the Code of Alabama. In our opinion of October 10, 1985, we have cited various Code sections providing the Board's jurisdiction and authority. The Code sections quoted hereinafter provide the Board's basis for jurisdiction over the Copeland Sulfur Plant and the associated pipeline 'gathering system':

"Section 9-17-6

(a) The Board shall have jurisdiction and authority over all persons and property necessary to administer and enforce effectively the provisions of this article and all other articles relating to the conservation of oil and gas.

(b) The Board shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste, over which it has jurisdiction, exists or is imminent. In the exercise of such power the Board shall have the authority:

. . . (4) To examine, check, test and gauge oil and gas wells, tanks, refineries and modes of transportation; . . .

(c) The Board shall have the authority to make, after hearing and notice as provided in this article, such reasonable rules, regulations and orders as may be necessary from time to time in the proper administration and enforcement of this article, including rules, regulations and orders for the following purposes:

. . . (11) To identify the ownership of all oil and gas wells, producing leases, refineries, tanks, plants, structures and storage and transportation equipment and facilities;

Dr. Ernest A. Mancini
State Oil and Gas Supervisor
Page Six

- . . . (16) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil, gas or any product;
- . . . (18) To require the placing of meters of a type approved by the Board wherever the Board may designate on all pipe lines, gathering systems, barge terminals, loading racks, refineries or other places deemed necessary or proper to prevent waste and the transportation of illegally produced oil and gas. Such meters at all times shall be under the supervision and control of the board; and it shall be a violation of this article, subject to the penalties provided in this article, for any person to refuse to attach or install such meter when ordered to do so by the Board or in any way to tamper with such meter so as to produce a false or inaccurate reading or to have any bypass at such a place where the oil or gas can be passed around such meter, unless expressly authorized by written permit of the Board."
(Emphasis added)

Further, under Section 9-17-21 of the Code of Alabama 1975, 'the sale, purchase or acquisition or the transportation, refining, processing or handling any other way of illegal oil, or illegal gas, or illegal product is hereby prohibited.'
(Emphasis added)

Consequently, under the statutes set forth hereinabove, it is our opinion that the State Oil and Gas Board of Alabama is authorized to assume regulatory jurisdiction over the Copeland Sulfur Plant and the associated pipeline 'gathering system' as described in the facts presented.

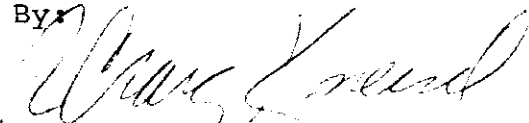
Dr. Ernest A. Mancini
State Oil and Gas Supervisor
Page Seven

We hope your questions have been adequately answered. If
our office can be of further assistance, please do not
hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By:

A handwritten signature in dark ink, appearing to read "R. Craig Kneisel", is written over the printed name and title.

R. CRAIG KNEISEL
Assistant Attorney General

RCK/dn

U.S. Department
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Research and
Special Programs
Administration

Southern Region Pipeline Safety

Materials Transportation Bureau
1776 Peachtree Road Northwest
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SEP. 18 1985

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Suite 504
Atlanta, GA 30309

Mr. Marvin Rogers
Attorney for the Board
State Oil and Gas Board of Alabama
P. O. Box 0, University Station
Tuscaloosa, AL 35486

Dear Mr. Rogers:

This responds to your letter of August 22, 1985, in which you inquire whether the Department of Transportation and the Alabama Public Service Commission have jurisdiction and authority over the Copeland Sulfur Plant and the associated gathering system as that system is described in the attachment and map enclosed in that letter.

The definitions of "gathering line" and "transmission line" in Part 192.3 are the foundation of any decision on a particular pipeline, particularly as to the point where a gathering line ends and the transmission line begins. In applying these definitions we have used one or more of the following items. We have considered that a gathering line ends and a transmission line begins at a point where the gas is ready for sale. Furthermore, we have considered that a transmission line begins at the outlet of a processing plant, or at the outlet of a compressor if no processing plant is upstream of the compressor. Also, we have used the point where ownership of the gas or a pipeline changes from one entity to another to determine whether a pipeline is a gathering or a transmission pipeline.

Using these criteria, it appears that the Copeland Sulfur Plant and the associated piping upstream of that plant is a gathering system. Gathering lines, if they are located in rural areas, are not subject to the jurisdiction of this Office.

I trust that this has responded adequately to your inquiry.

Sincerely,



Cesar De Leon, Acting Chief
Southern Region, Pipeline Safety
Office of Operations and Enforcement

cc:
Larry Waldrop, AL PSC